

IN THE UNITED STATES COURT OF CLAIMS

CHEYENNE-ARAPAHO TRIBES,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket Nos. 342-70
)	and 343-70
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

RESPONSES OF THE UNITED STATES DEPARTMENT
OF THE TREASURY, WASHINGTON D.C. TO PLAINTIFF'S
INTERROGATORIES THROUGH ROBERT E. FRALEY,
ATTORNEY, UNITED STATES DEPARTMENT OF JUSTICE
LAND AND NATURAL RESOURCES DIVISION, INDIAN
CLAIMS SECTION, WASHINGTON, D.C.

Pursuant to service of Interrogatories upon defendant's attorney of record on January 16, 1980, responses are hereby made in accordance with Rule 73 and the Trial Judge's Order Re Further Proceedings filed November 26, 1980.

John Kilcoyne, Assistant Fiscal Assistant Secretary, has supervised the gathering of information and documentation which constitute and support the answers herein. Mr. Kilcoyne supplied answers with respect to Rules, Regulations, etc., (e.g. Interrogatory No. 1, et seq.) and matters pertaining to his current duty assignment (e.g. Interrogatory No. 57, et seq.).

Cheyenne Arapaho Tribes, et al.
Plaintiffs
vs.
United States of America
Federal Claims Court
Defendant's Exhibit T-11

IN THE U. S. COURT OF CLAIMS

NO (S) 342-70 + 343-70

Plt's. <input checked="" type="checkbox"/>	Def's. <input checked="" type="checkbox"/>	EX. NO. <u>7-11</u>	(NO. OF SHEETS <u>15</u>)
Joint <input type="checkbox"/>	Cl's. <input type="checkbox"/>	FOR ID. <input checked="" type="checkbox"/>	IN EVID. <input checked="" type="checkbox"/>

FILED

APR 30 1980

COURT OF CLAIMS

WM5036575

Ms. Eleanor Condon, Senior Staff Accountant, Government Accounts and Reports Division, in conjunction with Ms. Joyce Barbee, Deputy Director of Government Accounts and Reports Division, have provided most of the answers and documents relating to the function of the Government Accounts and Reports Division, and the flow of funds through the Treasury system (e.g. Interrogatory Nos. 7-10, 27, and 40, etc.).

Charles Schwan, Director of Banking Staff, furnished answers with respect to the wire transfer system (e.g. Interrogatory Nos. 35-39).

Roland H. Cook, Director, Office of Market Analysis and Agency Finance, prepared and supplied the responses to Interrogatories Nos. 64 and 65.

Responses to plaintiffs' Interrogatories Nos. 1 through 65 (along with enclosures 1 through 12 as referenced within the answer to which such data relates) are as follows:

RESPONSES TO INTERROGATORIES

Interrogatory No. 1

Regulations, rules, and joint regulations which were applicable to collection, disbursement, investment of or accounting for Indian tribal trust funds for the litigation period, are contained in the following:

The General Accounting Office
Policy and Procedures Manual
for Guidance of Federal Agencies
(a several volume issuance un-
published in the CFR's).
Office of Management and Budget Circulars

Accounting Procedure Memorandum No. 40,
Supplement No. 1, dated October 19, 1954 and
Accounting Procedure Memorandum No. 82, dated
April 18, 1956.

Central Accounting Manual Section 4170,
Chapter 4000, Interest on Uninvested Funds
(as approved by the Comptroller General,
B-115397, October 31, 1968).

Treasury Department-General Accounting
Office, Joint Regulation No. 3, and Amendments
Nos. 1, 2, and 3.

Treasury Fiscal Requirements Manual,
Bulletin No. 75-03, September 30, 1975; joint
Regulations No. 5.

Interrogatory No. 2

We are not aware of any regulations or
rules that made it impossible to keep Indian
tribal trust funds invested outside the
Treasury until needed by the tribes for dis-
bursement.

Interrogatory No. 3

The collection and the deposit of collec-
tions is a function of the administrative
agency.

Treasury checks are issued by the Divi-
sion of Disbursement pursuant to disbursement
voucher forms certified by the Department of
the Interior.

The investment of Indian tribal trust
funds pursuant to administrative program
agency is a function of the Appropriation and

Investment Branch of the Division of Government Accounts and Reports. Predecessor offices during the litigation period were

Investment Operations
Division of Government Financial
Operations (from July 1, 1969 until about
February 1974)

Investments Branch
Division of Deposits and Investments
(from June 30, 1969 to beginning of
Litigation Period)

The accounting for Indian tribal trust funds administratively is a function of the Department of the Interior. Central accounting in Treasury is a function of the Accounting Operations of the Division of Government Accounts and Reports. Predecessor offices were the

Central Accounting Operations
under Financial Operations,
Division of Government Financial
Operations (from July 1, 1969 until
about February 1974)
Accounting and Control Branch
Division of Central Accounts and
Reports (from June 30, 1969 to
beginning of Litigation Period)

All of the above Divisions were under the Bureau of Accounts prior to February 1, 1974 when the Bureau of Accounts was succeeded by the Bureau of Government Financial Operations.

Interrogatory No. 4

Trust funds other than Indian tribal funds are collected and deposited by the pertinent administrative program agencies.

Treasury checks are issued by the Division of Disbursement pursuant to disbursement voucher forms certified by the pertinent administrative program agencies.

Investment of funds pursuant to administrative program agency request and central accounting in Treasury functions are as indicated in response to Interrogatory No. 3.

An excerpt from the 1968 booklet of Receipt, Appropriation and Fund Account Symbols and Titles shows the receipt account symbols and titles of trust funds other than Indian tribal funds and District of Columbia funds. The receipt accounts shown on the list for interest and profits on investments are indicative of those trust funds which could be invested. (Enclosure No. 2.)

Interrogatory No. 5

The answer to this question is as indicated in responses to Interrogatories Nos. 3 and 4.

Interrogatory No. 6

None.

Interrogatory No. 7

Non-Indian trust funds were collected, disbursed, accounted for and invested basically employing the same fiscal procedures as Indian trust funds with due cognizance being given to the unique statutory requirements of each fund.

Interrogatory No. 8

A response is not required as the answer to Interrogatory No. 7 is not negative.

Interrogatory No. 9

As indicated in response to Interrogatory No. 7, the statutory requirements for Indian tribal funds, such as the legislation providing for the payment of interest on uninvested funds, and the maintenance of separate tribal funds, are reasons for any different

treatment of Indian tribal funds, as the statutory requirements of other trust funds are the basis for pertinent accounts.

Interrogatory No. 10

There were approximately 1,478 tribal trust and related summary accounts maintained by Treasury prior to July 1, 1972.

Interrogatory No. 11

Three expenditure accounts are currently maintained. There are twenty-one related receipt accounts.

Interrogatory No. 12

Pre-July 1, 1972 there were five separate Treasury accounts for each tribal trust fund: (1) An unavailable receipt account to record principal receipts, (2) a nonexpenditure account to which unavailable principal receipt amounts were appropriated, (3) an expenditure account to which amounts were transferred from the nonexpenditure account when needed for disbursement, (4) an unavailable receipt account of record interest, (5) an expenditure account to which unavailable receipt amounts for interest were appropriated.

Interrogatory No. 13

The Undisbursed Appropriation Accounts - Trial Balance, TFS Form 6654, is a summary of the individual Undisbursed Appropriation Account Ledger forms which show the transactions for each appropriation and fund. Each account represents the consolidation of appropriation warrants issued, transactions reported by agencies on statements of transactions, and certain centrally processed documents, e.g., SF 1151 "Nonexpenditure Transfer Authorizations." As of the close of each month, agencies are furnished an Undisbursed Appropriation Account Ledger for each appropriation and fund account. This ledger shows for each account the opening balance, classified transactions for the month, and the resulting closing balance.

Interrogatory No. 14

The Unappropriated Receipts Trial Balance, TFS Form 6655, is a summary of the Unappropriated Receipt Account Ledger forms, TFS Form 6655, which show for an accounting month the opening balance of unappropriated receipts, current month transactions (appropriation actions and collection of unavailable receipts) and the resulting closing balance.

Interrogatory No. 15

Treasury paid interest on amounts in nonexpenditure accounts only during the litigation period. Amounts were transferred from the nonexpenditure accounts to expenditure accounts pursuant to a Nonexpenditure Transfer Authorization, SF 1151, submitted to Treasury by the Department of the Interior. Office of Management and Budget Circular No. A-34 defines "Allotment" as follows:

Authority delegated by the head or other authorized employee of an agency to agency employees to incur obligations within a specified amount, pursuant to OMB apportionment or reapportionment action or other statutory authority making funds available for obligation.

Interrogatory No. 16

Treasury paid interest on amounts credited to the principal receipt accounts from the day the amount was covered into the Treasury under its procedure prior to July 1, 1972.

Interrogatory No. 17

Yes. When Treasury issues a check from a Treasury account, the amount of the check is considered "disbursed" and drawn from the account.

Interrogatory No. 18

Treasury funds which have been "disbursed" but not actually expended, meaning checks which have been issued but have not been presented for payment, are accounted for as liabilities of the United States government. These liabilities are not accounted for by appropriation or fund.

Interrogatory No. 19

Amounts of liabilities for outstanding checks are not invested.

Interrogatory No. 20

Please see No. 19.

Interrogatory No. 21

"Allotment" in the Indian tribal trust fund context was a term used and defined by the Bureau of Indian Affairs. Its meaning and applications were not relevant to Treasury operations.

Interrogatory No. 22

See answers to Interrogatory No. 21.

Interrogatory No. 23

See answers to Interrogatory No. 21.

Interrogatory No. 24

See answers to Interrogatory No. 21.

Interrogatory No. 25

See answers to Interrogatory No. 21.

Interrogatory No. 26

See answers to Interrogatory No. 21.

Interrogatory No. 27

Amendment No. 3 to Treasury Department-General Accounting Office Joint Regulation No. 3 enabled the:

elimination of the need to issue appropriation warrants to establish in Indian tribal trust fund nonexpenditure accounts amounts of tribal fund principal receipts;

elimination of the nonexpenditure accounts;

elimination of transfers of amounts from the nonexpenditure accounts to expenditure accounts;

elimination of appropriation warrants to establish immediately in expenditure accounts all amounts for Indian tribal fund interest receipts;

assumption by Interior from Treasury of the semi-annual computation of interest on Indian trust funds accounts; and,

consolidation, at a very summary level, of the approximate 1,478 tribal trust and related accounts maintained in Treasury. This action put Indian tribal accounts on the same summary basis in Treasury as the accounts Treasury maintains centrally relating to other administrative agencies.

Interrogatory No. 28

The date interest started prior to Amendment No. 3 was the date the certificate of deposit was received from the Federal Reserve Bank and branches and assigned for keypunching in the Bureau of Accounts, which, depending on the point of deposit, could be up to 5 days or more. Under current procedure, the interest starts on the day the deposited is confirmed by the receiving bank. The designation of Indian trust receipts as available made the amounts available for investment when the deposit was confirmed.

Interrogatory No. 29

There appeared to be no disadvantages.

Interrogatory No. 30

Yes.

Interrogatory No. 31

The consolidation of the tribal trust accounts in Treasury placed the Indian tribal accounts on the same summary basis in Treasury as the accounts Treasury maintained centrally for other administrative agencies.

Interrogatory No. 32

Amendment No. 3 was not based on any new law or government regulation.

Interrogatory No. 33

Treasury is not aware of any statute or government regulation which would have prevented Amendment No. 3 from being adopted at any time during the period 1964 - 1972.

Interrogatory No. 34

Amendment No. 3 was adopted pursuant to a proposal by Treasury.

Interrogatory No. 35

Yes; Treasury funds are both disbursed and received via the Federal Reserve Communication System. Treasury is electronically linked with the Federal Reserve Bank of New York--a system known as the Treasury Financial Communications System (TFCS).

Interrogatory No. 36

The first wire transfer system, Bank Wire, was established in 1950.

Interrogatory No. 37

The Treasury has used a wire transfer procedure for the movement of funds since the early 1960's. Our records do not permit us to be any more exact.

Interrogatory No. 38

The Bureau of Indian Affairs (BIA) has utilized a wire transfer procedure for the investment of Indian Tribal Trust Funds since 1971. In September 1976, BIA was authorized by the Treasury to transfer funds to banks via TFCS for investment in Bank Time Certificates of Deposit. Also in 1976, BIA was authorized by the Treasury to utilize TFCS in carrying out its responsibilities as trustee of the Alaskan Native Fund and the Indian Tribal Funds. BIA has been receiving deposits from banks for maturing Certificates of Deposit, Small Business Administration (SBA) loan payments, and Government National Mortgage Association (GNMA) passthrough payments, via TFCS, since November 1976. In August 1978, BIA was authorized to receive deposits from the leasing of Indian Trust Lands to private companies for the use of timber sales, oil and uranium mining, and farming.

Interrogatory No. 39

Transferring funds by wire eliminates mailing and processing checks, thereby accelerating the collection of receipts and permitting disbursements to be made on the exact due date.

Interrogatory No. 40

The functions of the Division of Government Accounts and Reports are briefly stated in Enclosure No. 3.

Interrogatory No. 41

The Division of Government Accounts and Reports has been in existence since about February 1974.

Interrogatory No. 42

Prior to Amendment No. 3, the functions regarding the collection, disbursement, investment and accounting for Indian tribal trust funds did not vary, as far as we know.

Interrogatory No. 43

Please see answer to No. 42.

Interrogatory No. 44

Please see answer to No. 3.

Interrogatory No. 45

Mr. W. Wasserstein is the current Director, Division of Government Accounts and Reports.

Mr. John Turner, the prior Director, is currently the Assistant Commissioner, Governmentwide Accounting. The Division of Government Accounts and Reports is under his immediate supervision.

The next prior, and first Director of the Division of Government Accounts and Reports, was Mr. Paul H. Taylor, who currently is the Fiscal Assistant Secretary.

Interrogatory No. 46

The functions of the Appropriation and Investment Branch are briefly stated in Enclosure No. 3.

Interrogatory No. 47

As indicated in Enclosure No. 4, the Appropriation and Investment Branch analyzes provisions and limitations of private and public laws relating to appropriations and funds authorized for all departments and agencies.

Interrogatory No. 48

The functions, or duties, of an appropriation analyst are as shown in Position Description in Enclosure No. 4.

Interrogatory No. 49

The Appropriation and Investment Branch actively invests trust funds (Indian or non-Indian) pursuant to pertinent legislation and requests from administrative program agencies.

Interrogatory No. 50

Individual Funds are invested under individual statutory authority. See Enclosure No. 3 for legislative citations (shown on listing of receipt accounts).

Interrogatory No. 51

There is investment activity for funds administered by many Departments and agencies of the Federal Government.

Interrogatory No. 52

The Appropriation and Investment Branch of the Treasury, was not in existence during the entire litigation period. It came into existence in 1974.

Interrogatory No. 53

Prior to 1972, the investment functions were under the now nonexistent Division of Government Financial Operations and prior to that under the now nonexistent Division of Deposits and Investments. Please refer to response to No. 3 regarding collection and disbursement functions. The interest computation function was performed under the Division of Government Financial Operations in the Legislative Review Section and in its predecessor the Appropriation Analysis Section, under the Division of Central Accounts and Reports.

Interrogatory No. 54

Please see Enclosure No. 3 for organizational changes.

Interrogatory No. 55

Please see response to No. 53.

Interrogatory No. 56

Mr. Patrick Wrenn has been the Manager, Appropriation and Investment Branch, since its beginning.

Interrogatory No. 57

A copy of the job description for the Assistant Fiscal Assistant Secretary (Banking), Department of the Treasury, is attached at Tab, see enclosure 5.

Interrogatory No. 58

Yes, the office has been in existence during this period. Up until 1976, the position was entitled "Assistant Fiscal Assistant Secretary." The word "Banking" was added to the title in 1976.

Interrogatory No. 59

Not substantially, according to the records which can now be located. The job description for the first incumbent (Hampton A. Rabon - 1964 to 1968 - deceased) cannot be located. The job description for the next three incumbents do not mention any responsibilities for Indian tribal trust funds. Nevertheless, all holders of the office would have had (would have) general policy guidance responsibilities when significant issues arose, subject to the final determination of the Fiscal Assistant Secretary.

Interrogatory No. 60

See answer to #59.

Interrogatory No. 61

- 1) Hampton A. Rabon (1964/1968) (deceased)
- 2) Sidney Cox (1969/1975) (retired)
- 3) Paul Taylor (1975/1976) (Treasury
Fiscal
Assistant
Secretary)
- 4) John Kilcoyne (1976/to present)

Interrogatory No. 62

Fiscal Assistant Secretary (Paul Taylor)

Interrogatory No. 63

Yes.

Interrogatory No. 64

See enclosure 6.

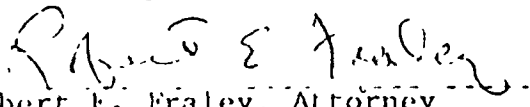
Interrogatory No. 65

Treasury Department does not maintain
historic market quotations for the agency
issues listed in this question.

Interrogatory No. 66


Not applicable. See answer to Inter-
rogatory No. 65.

The foregoing answers to interrogatories were supplied by
the persons named above to Robert E. Fraley, Attorney, Indian
Claims Section, Land and Natural Resources Division, United States
Department of Justice, who believes and represents them to be true.


Robert E. Fraley, Attorney

Subscribed and sworn to before me a Notary Public in and
for the District of Columbia.

Dated this 28th Day of February, 1980.


NOTARY

My commission expires July 31, 1984.

WMS036589